

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY**

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 17, 1999 at 10:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. John Hertel, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)
Sen. Fred Thomas (R)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: HB 47; HB 186; HB 196
HB 306; HB 598;
HB 63

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EXECUTIVE ACTION ON HB 63

SEN. JOHN HERTEL said that the committee heard this bill on

March 3. There were six proponents and six opponents. The Department presented an amendment. The committee accepted the amendment in Executive Action. It mainly left the plumbers in the bill and took the other contractors out. This was not too acceptable to the sponsor. The bill went to the Senate Floor. On March 10, he withdrew the bill and brought it back to the committee. Supposedly negotiations were being done. That is the reason for holding this bill until today.

SEN. BEA MCCARTHY made the statement that it was her intention to table the bill but if there were those who wished to discuss the bill further, she would hold her motion. The people have tried to settle their differences but they don't seem to be able to do that. Maybe in two years they can come up with something better than this.

SEN. VICKI COCCHIARELLA said that she had spent much time talking with several of the opponents and proponents to come to an agreement. At this point there was still not an agreement. Her concern is the Department of Commerce, Building Codes Division, is not being pro active in making sure that Montanans are living by the codes that are appropriate and up to date. They say they can do this through rulemaking, but they haven't done it. A strong message should be sent to the Building Codes Division in some form that says either do it or the legislature will do it even to the point of taking all their power away.

Bart Campbell, Administrative Assistant related that historically in his time at the legislature, a letter could be sent to the Building Codes Division that could say handle this in the interim or in the next session, the legislature will handle it and you probably won't like the way it will be handled. It is cheaper than doing a resolution and taking it through the system. The committee as a whole could sign the letter and send it to the Department of Commerce.

SEN. MIKE SPRAGUE agreed that the idea was a good one. Something needs to be done and done in a strong manner. It is obvious that things are not coming together at this time for this bill. And the Department needs a shaking up.

SEN. COCCHIARELLA said that there was another issue that this committee has not dug into enough. Her concern was with the Building Codes and their views on the international codes and the protection of the manufactured home industry and their power and clout over the licensure boards. Every time they do something, their efforts are directed at taking power away from the boards; i.e. plumbers and electricians. They want to be all powerful but

won't even then make the necessary decisions. There is more to this than meets the eye. This should be included in our letter.

Mr. Campbell said that one way to handle this bill would be to make this a first bill draft request. He had been assigned another time to do this. He would not have a budget. If a person were to make a bill draft request, that would allow him to compile information with an eye toward future legislation.

Motion/Vote: SEN. MCCARTHY moved that HB 63 BE TABLED. Motion carried 6-1 with SEN COCCHIARELLA voting no.

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EXECUTIVE ACTION ON HB 153

Motion: SEN. MCCARTHY moved that HB 153 BE CONCURRED IN.

Discussion: **Motion:** SEN. MCCARTHY moved that HB 153 BE AMENDED **EXHIBIT** (bus60a01).

Discussion: **Mr. Campbell** explained the amendments requested by SEN. MCCARTHY. SEN. MCCARTHY said they have stricken much language that is in current law and have taken the preneed part of the bill and defined and clarified it. They tried to make the preneed section the impetus for the bill. The monetary issue was clarified so that the money stays in the State of Montana. **Mr. Campbell** said that Sections 1 and 2 were taken out. Section 1 contains the definitions which is about three pages long. Then the definitions were put back in as Section 1 with one amendment to that. On page 3 of the amendments, preneed arrangements were redefined to clarify that those were arrangements that have to be made with a licensed funeral director or licensed mortician. The amendments requested by the Clerks and Records were kept as to the deed language. The remaining sections dealt with how the trust funds were to be set up and how they would be kept in Montana. On page 4, number 9, new sub (1) that states pre-arranged funeral services or related services may be presented, negotiated and sold to the public only by a licensed funeral director or licensed mortician. With the exception of those changes the rest of the law in that area stays the same.

SEN. JOHN HERTEL brought up a concern of many who had contacted him about the definitions that were taken out of the bill. Are most of those new definitions back in? **Mr. Campbell** said the definition sections is an existing section of law. He has left those old definitions as they already exist in the law. He only added a preneed definition.

SEN. MIKE SPRAGUE asked if funeral director is licensed as well as morticians and then would both be able to sell the preneed service. **Mr. Campbell** said that this bill means to sell preneed packages only through licensed funeral director or licensed mortician. He recalled that in the existing law this would remain the same. Also, there are few licensed funeral directors left and they are probably all grandfathered in.

SEN. COCCHIARELLA had questions about the definitions and felt they were not covered under the old definitions. **Melody Brown** was asked to respond to the definitions. **Ms. Brown** said that the Board of Funeral Directors worked for three years on new definitions and these were in the bill. Since the new amendments take out all the definitions, all their work has been for naught. The profession has progressed and things change as well as the definitions of what people can do and cannot do.

SEN. MCCARTHY said that surely Ms. Brown was aware that Bart was working on the amendments and the definitions. **Ms. Brown** said that Bart informed her that her input did not matter and that he would only do what Sen. McCarthy asked. **Mr. Campbell** said that was not true. (There was a bit of consternation at this point.)

SEN. COCCHIARELLA, SEN. SPRAGUE AND SEN. THOMAS all felt that some of the new definitions should be in the bill.

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At this point **SEN. HERTEL** suggested forming a sub-committee to come to a conclusion as far as the definitions were concerned. **SENATORS THOMAS, COCCHIARELLA and BERRY** with **Mr. Campbell** were asked to form this committee and hoped that they would be able to meet in the afternoon. This was concurred in.

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EXECUTIVE ACTION ON HB 47

Motion: **SEN. COCCHIARELLA** moved that HB 47 BE CONCURRED IN.

Discussion: **Motion:** **SEN. COCCHIARELLA** moved that HB 47 BE AMENDED **EXHIBIT** (bus60a02).

Discussion: Mr. Campbell said that the parties concerned did not agree on the amendments from Frank Cote, Deputy Insurance Commissioner.

SEN. COCCHIARELLA was concerned about the difference between three and five years. It is important that five years as statute of limitations be put back in the bill.

Mr. Campbell said that if the five years goes back in and doesn't put the second amendment back in, it would not fit together right.

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Vote: Motion that HB 47 BE AMENDED carried unanimously. 7-0

Motion/Vote: SEN. COCCHIARELLA moved that HB 47 BE CONCURRED IN AS AMENDED. Motion carried unanimously. 7-0

SEN. THOMAS will carry the bill on the Senate Floor.

EXECUTIVE ACTION ON HB 186

Motion: SEN. ROUSH moved that HB 186 BE CONCURRED IN.

Discussion: **Motion:** SEN. ROUSH moved that HB 186 BE AMENDED **EXHIBIT** (bus60a03).

Discussion: Mr. Campbell said that the amendments clarify the responsibility of financial institutions when they are acting as an administrator of the medical savings accounts. Look at number five, it states that financial institutions are not responsible to make a determination when someone is going to make a withdrawal, whether it would be for an eligible medical expense.

Vote: Motion that HB 186 BE AMENDED carried unanimously. 7-0

Motion/Vote: SEN. THOMAS moved that HB 186 BE CONCURRED IN AS AMENDED. Motion carried unanimously. 7-0

SEN. THOMAS will carry the bill on the Senate Floor.

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EXECUTIVE ACTION ON HB 196

Motion/Vote: SEN. ROUSH moved that HB 196 BE TABLED. Motion failed 2-5. SENATORS BERRY, COCCHIARELLA, HERTEL, MCCARTHY AND SPRAGUE voted no.

Motion/Vote: SEN. SPRAGUE moved that HB 196 BE CONCURRED IN. Motion carried unanimously. 7-0

SEN. THOMAS will carry the bill on the Senate Floor.

EXECUTIVE ACTION ON HB 306

Motion/Vote: SEN. COCCHIARELLA moved that HB 306 BE CONCURRED IN. Motion carried unanimously. 7-0

SEN. HERTEL will carry the bill on the Senate Floor.

EXECUTIVE ACTION ON HB 598

Motion/Vote: SEN. COCCHIARELLA moved that HB 598 BE CONCURRED IN. Motion carried unanimously. 7-0

SEN. MCCARTHY will carry the bill on the Senate Floor.

ADJOURNMENT

Adjournment: 11:05 A.M.

SEN. JOHN HERTEL, Chairman

MARY GAY WELLS, Secretary

JH/MGW

EXHIBIT (bus60aad)